

21 C.J.S. Courts § 205

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Courts

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VI. Rules of Adjudication, Decisions, and Opinions

B. Stare Decisis

2. Courts Making Prior Decision

§ 205. Intermediate appellate courts—Effect of denial of further discretionary review

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West's Key Number Digest

West's Key Number Digest, [Courts](#)  91(2)

The denial of discretionary review is not itself precedent, nor does it make the intermediate court's decision final authority.

The denial of a writ of certiorari or petition for review by a high court is not binding as a precedent in another case¹ and is not ordinarily regarded as affirming the intermediate court's decision that raises it to the dignity of final authority.² The denial of a petition for further review does not give the intermediate court's decision any different precedential weight than a decision from which no review was sought.³ Even if an intermediate court of appeals is a court of last resort in the particular case, the state supreme court is still a superior court and not bound by the decisions of the court of appeals when it transfers cases from the intermediate court.⁴

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Footnotes

- 1 Ariz.—*Morgan v. Carillon Investments, Inc.*, 207 Ariz. 547, 88 P.3d 1159 (Ct. App. Div. 1 2004), *aff'd*, 210 Ariz. 187, 109 P.3d 82 (2005).
- Ga.—*Scott v. Scott*, 276 Ga. 372, 578 S.E.2d 876 (2003).
- 2 Mass.—*Com. v. LeClair*, 445 Mass. 734, 840 N.E.2d 510 (2006).
- Pa.—*Dougherty v. Proctor & Schwartz*, 317 Pa. 363, 176 A. 439 (1935).
- Tenn.—*Bryan v. Aetna Life Ins. Co.*, 174 Tenn. 602, 130 S.W.2d 85 (1939).
- Effect of a summary disposition, see § 232.
- Not endorsement of reasoning or result**
- Minn.—*Goodyear Tire & Rubber Co. v. Dynamic Air, Inc.*, 702 N.W.2d 237 (Minn. 2005).
- 3 Minn.—*Powell v. Anderson*, 660 N.W.2d 107 (Minn. 2003).
- 4 Mo.—*State v. Grubb*, 120 S.W.3d 737 (Mo. 2003).